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ABSTRACT

The document presents scripts prepared by experienced lawyers for seven mock trials. Designed for high school or adult audiences as introductions to the American legal system, the scripts use community lawyers, judges, and law officers as well as actors. Script topics include cases concerning automobile accidents, drunken driving, homicide, burglary, child abuse, and a landlord-tenant dispute. Each case lists and describes the participants, states the general facts of the case, states the facts for each witness, describes the issues, illustrates the exhibits, and suggests jury instructions. Time allotment for each case varies, but should take no longer than two and one half hours. As much verisimilitude as possible in terms of location and participants is encouraged. (CK)

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MOCK TRIALS
SCRIPTS FOR WISCONSIN LAWYERS AND TEACHERS

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50 012 186

TABLE OF CONTENTS

	Page
AUTOMOBILE ACCIDENT	
Prepared by	
Attorney John D. Thiel	5
Attorney Brad Armstrong	
LANDLORD-TENANT CASE	
Prepared by	
Attorney Jack Olson	
Attorney John Winter	19
DRUNK DRIVING CASE	
Prepared by	
Attorney Joseph R. Haack	
Attorney Howard Goldberg	33
AUTOMOBILE ACCIDENT	
(5-year-old boy - Driver polio victim)	
Prepared by	
Attorney Frederic J. Berns	46
HOMICIDE CASE	
Prepared and revised by	
Attorney Bryan Frame	65
BURGLARY CASE	
Prepared and revised by	
Attorney Bryan Frame	78
CHILD ABUSE	
Prepared by	
Attorney Frederic J. Berns	93

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MOCK TRIALS FOR USE BY WISCONSIN LAWYERS AND TEACHERS

NOTE TO TEACHERS: It is good to get a lawyer's help in preparation of any mock trial. Not only will he or she be familiar with the sequence of events, he also may be able to help you get a local judge to preside over your trial. His experience will greatly enhance your presentation.

INTRODUCTION

A properly conducted mock trial is one of the finest introductions to our legal system available. Mock trials are well suited for high school groups as well as for adult audiences and may be arranged and conducted with a minimum of effort and expense. Preparation of any mock trial should include a lawyer's help.

CHOICE OF SCRIPTS

In the following pages you'll find several scripts. Each has been carefully prepared by experienced lawyers. The scripts are not meant to be read verbatim by the participants, but should serve as outlines by giving the necessary facts for students to use as they make a presentation in their own words.

The scripts are designed to use the talent of lawyers from the community plus that of a judge who will preside. Trial participants should be selected from the group for whom the trial is presented. Where a police officer is required to testify, it helps for the actors and audience to have a uniformed officer from the local police force to participate, for this adds much realism to the event.

While the scripts will require varying amounts of time for presentation, the entire mock trial should take no longer than 2 to 2½ hours. As a practical matter, where a mock trial is presented before a high school group, an entire morning or afternoon should be set aside for this purpose. While the presentation could be completed in a shorter time, the people involved enjoy the event more and find it more useful if they are not rushed.

SUGGESTIONS FOR THE PRESIDING JUDGE

In some instances you'll be able to present your trial in a courtroom in your town or city. This adds some authenticity. In other cases, you may need to use a high school auditorium or other suitable site.

The presiding judge is the key figure throughout and can make the program succeed by his handling of the trial. Since the trial is not a real one and since certain liberties on legal procedure may be necessary, the judge is particularly important. He should open the trial by explaining that the procedure followed will be much like that in an actual court case, with certain minor variations (such as jury selection). He also should tell the actors and audience that he may interrupt from time to time to explain what is being done and why or to explain the importance of certain aspects of the trial.

The judge should discuss very briefly the difference between a civil trial and a criminal trial and the importance of a jury. He should briefly discuss the importance of witnesses and the obligation of persons called as witnesses to give their evidence. He should note that a trial is a search for the truth of what has happened.

When the jury retires to reach its verdict, the judge may talk informally and explain the matters which developed during the trial. In the interest of brevity, the judge may want to abbreviate or omit parts of the jury instructions given. Also, the judge may take one or more of the issues away from the jury by ruling as a matter of law in favor of one of the parties.

THE GENERAL PROCEDURE

The trial must move rapidly for the sake of audience interest and of the time limitation. Any lawyers or judges participating should be careful to speak simply and clearly. They may want to over-simplify some of the language and procedures and, in fact, are encouraged to do so in order to avoid confusing the students with legal technicalities, objections and motions. This may be the first exposure to the legal system for many present.

THE SCRIPTS

The scripts are prepared with the same general format. There is a list of participants, a statement of facts, statement of facts for each witness, statement of the issues, suggested jury instructions, and verdicts. The teachers, lawyers, judges and other professionals involved should familiarize themselves with the scripts before the presentation and should feel free to make any necessary changes in the printed materials.

HOW TO PROCEED

Since this is the second edition of the mock trial book and since Project Inquiry and the Law-Related Education Project have been active in most counties throughout the state, many schools will need no encouragement from lawyers to plan a mock trial. If law in the classroom has not been a part of your county, the local bar individual lawyers may want to encourage the schools to try a mock trial for openers.

Once a trial date is set, you'll need to find a place to hold the trial. If the courthouse is not available and another room is used, the participating attorneys should work to set up the judge's bench and chair, jurors' chairs, witness chair and tables for counsel as they would appear in a court chamber.

It also would be wise for counsel for the plaintiff and defendant to confer briefly on procedures to be used. They might want to confer with each other as well as with the lawyer acting as moderator for the event.

Copies of the statements for the various participants as well as of the special verdict and any other document that will be presented to the jury should be made for the participants. This book is designed so that copying of these materials is easy for you.

After the witnesses, police officer, plaintiff, and defendant have been chosen, they should meet with their respective counsel who will tell them

what procedure will be followed and coach them on their presentation of the facts from the scripts. Urge them not to read, but to learn the facts and then testify as though the event were actually happening to them. The preparatory conference need not be lengthy.

You may want to invite the local press to attend the trial. You may also want to plan time afterwards for answering questions from the actors or the audience.

Finally, be sure to enjoy the trial and the work that goes into making it successful. Through this enjoyment and genuine involvement in the action, the reasons for conducting a trial and the means of doing so will be most meaningful. Since the mock trial will be the first exposure of most of the audience to our legal system, it's particularly important that they find not only interest and information in it, but appreciation of their role in our legal system as well.

MOCK TRIAL SCRIPT

AUTOMOBILE ACCIDENT

Prepared by

Attorney John D. Thiel
Attorney Brad Armstrong

PARTICIPANTS IN TRIAL

JUDGE

Man....Defendant driver of 1966 Ford proceeding north
on PD

Man....Passenger in defendant's 1966 Ford

Woman..Plaintiff driver of 1966 Chevrolet proceeding
south on PD

Woman..Farm lady living at farm at scene of accident

Man....Police officer who investigated scene of accident

Plaintiff's counsel

Defendant's counsel

Jurors

STATEMENT OF FACTS

Highway PD is a County Trunk blacktop road 20 feet in width extending north and south. The road is divided by a dotted center line. Extending in a westerly direction from Highway PD is a farm driveway. About 300 feet north of the driveway is a crest of a hill. Defendant driver is proceeding north on Highway PD during daylight hours. The sun is shining and the road is dry. He intends to make a left hand turn into the farm driveway to turn around. Plaintiff driver is coming from the north on Highway PD proceeding south and approaching the driveway. A collision occurs between the two cars in the neighborhood of the driveway. Plaintiff was injured and damages are stipulated and inserted into the verdict by the judge. Further facts will be presented in the statements of the witnesses.

STATEMENT OF FACTS

DEFENDANT

My name is _____

I live at _____ in _____

I was driving north on Highway PD during daylight hours in a 1966 Ford. My passenger was _____ sitting in the righthand side of my car.

A driveway coming from the west intersects with PD. The driveway is about one-half way up a hill. The hill crests about one-half block north of the driveway. As I approached the driveway, I turned on my left turn signal and came to a full stop in my own lane of travel. I looked to the north and saw no cars. As I was about to commence my left turn, I saw plaintiff's 1966 Chevrolet come over the top of the hill proceeding south. It was about one-half block away. My first impression was that her speed was very fast. I have no exact estimate. She appeared to put on the brakes and her car began to fishtail down the hill. A collision occurred between the left front of her vehicle and the left front of my vehicle. I am positive that the collision occurred about one foot on the east side of the center line, in my lane. I had nothing to drink on the day of the accident. After the accident I heard the plaintiff woman driver say in my presence and in the presence of a farm lady that she was going 75 miles an hour coming over the hill.

STATEMENT OF FACTS

PASSENGER

My name is _____

I live at _____ in _____

I was sitting on the right hand side of _____'s
(defendant) car which was proceeding north on Highway PD. I was not paying any
particular attention to the road or to _____ (defendant)
driving. I remember our car slowing and _____ (defend-
ant) putting on the left turn signal. I recall our car came to a full stop at
the entrance to the driveway. I believe that our car was on the right side of
the center line, but I cannot be absolutely certain. The first time I was aware
of anything wrong was when I saw the 1966 Chevrolet coming at us going southerly
on Highway PD about two car lengths away. The car was fishtailing down the road.
I believe that the collision occurred between the left front of our vehicle and
the left front of the plaintiff's vehicle on the right hand side of the road.
I heard no conversations afterwards. I did not see any debris on the road. Be-
fore I'd left with _____ (defendant) I had had six bottles
of beer in the last four hours. The last bottle of beer I had was one-half hour
before the time of the accident. I do not know if _____
(defendant) was drinking. I was convicted of disorderly conduct one year ago
resulting from a tavern brawl.

STATEMENT OF FACTS

PLAINTIFF

My name is _____

I live at _____ in _____

I was proceeding south on Highway PD at 65 miles per hour. I checked my speedometer about 100 yards north of the crest of the hill. I did not reduce or increase my speed at the top of the hill. I first saw the 1966 Ford at the driveway when I was at the top of the hill. It was moving slowly across the center line with its blinker on. I have no estimate as to how far the vehicle was across the center line, but I am positive it was across the center line. I immediately hit the brakes. After braking I could feel the back end of the car sway, but I am sure that it never left my lane. The collision occurred, I am positive, on my side of the road although I do not know exactly how far. I did not see or notice any debris on the road. The left front of my car and the left front of the 1966 Ford collided. I deny making any admission to anyone after the accident that I was going 75 miles an hour.

STATEMENT OF FACTS

FARM LADY

My name is _____

I live at _____ on a farm on Highway PD.

My farm is at the driveway where the accident occurred.

I do not know anyone involved in the accident. I saw nothing, but heard a screech of brakes and a collision. I ran out to the driveway and at that time the cars were pulled into the driveway. I did not look at the scene of the accident and saw no debris. Shortly after I arrived at the cars, I heard the woman _____ (plaintiff) say that she was going 75 miles an hour at the top of the hill.

STATEMENT OF FACTS

POLICE OFFICER

My name is _____

I am a police officer for _____ County.

I was called to the scene of the accident. I arrived about one-half hour later. At that time both cars were in the driveway. I have been a police officer for 20 years and have investigated many accidents. I made measurements and observations at the scene of the accident. Highway PD is 20 feet wide with a dotted center line rising to a fairly steep hill which crests 300 feet north of its intersection with the driveway. There were no skid marks visible because of the condition of the road. I investigated the scene of the accident and found the following:

There was glass and metal scattered about the road, but mostly confined in the southbound (west) lane of Highway PD. I found dirt from 2 feet 8½ inches to 3 feet 5½ inches west of the center line in the southbound lane. It is my opinion as an expert in investigating accidents that dirt from underneath the cars usually drops straight down from the point of impact. I would therefore put the point of impact between 2 and 3 feet to the west of the center line in the southbound lane of traffic. I heard no conversations between the parties afterwards. The stories told to me by the parties involved in the accident were exactly as they have testified here today.

The speed limit on Highway PD was 65 miles per hour.

STATEMENT OF ISSUES

It is expected that an issue of fact be presented as to defendant's negligence in his position on the road and failure to yield the right of way to oncoming traffic.

It is expected that an issue of fact be presented as to plaintiff's negligence as to her speed and management and control.

Lookout has deliberately been omitted from this case. It is to be hoped it will not arise. Stopping and braking distances should also be avoided. It is hoped that the admissibility of the witness's conviction and his drinking will be decided by the judge, with explanation. The Emergency Rule should also be avoided.

Questions should not be asked which are beyond the statement of facts supplied to each witness. The judge should rule on this.

The damage question in the verdict should be answered by the judge, with an explanation.

SUGGESTED INSTRUCTIONS

200A BURDEN OF PROOF: ORDINARY: (ALTERNATE)

The burden of proof as to Questions 1 and 2 is on the plaintiff; the same burden is on the defendant as to Questions 3 and 4. By burden of proof is meant the duty resting on the party having the affirmative of an issue to satisfy or convince the jury, to a reasonable certainty, by the greater weight of the credible evidence, of the truth of the contentions of that party.

It is not enough that the evidence of the party on whom the burden of proof rests is of slightly greater weight or convincing power; it must go further and satisfy or convince the minds of the jury to a reasonable certainty before the burden of proof is discharged.

1005 NEGLIGENCE: DEFINED

Questions 1 and 3 in the verdict contain the word negligence. Negligence has the same meaning as the phrase failure to exercise ordinary care.

A person is negligent when he fails to exercise ordinary care. Ordinary care is the degree of care which the great mass of mankind ordinarily exercises under the same or similar circumstances. A person fails to exercise ordinary care when, without intending to do any wrong, he does an act or omits a precaution under circumstances in which a person of ordinary intelligence and prudence ought reasonably to foresee that such act or omission will subject the person or property of another to an unreasonable risk of injury or damage. Negligence may also be said to mean a want of, or failure to exercise, that care and caution which a person of ordinary intelligence and prudence usually exercises in a like or similar situation, work or operation, under like or similar circumstances.

In addition to this general definition of negligence, there are other rules of law as well as statutes enacted by the legislature for safe operation of vehicles on the highways. A person who fails to comply with such rules or statutes is negligent, as that term is used in the verdict and in the court's instructions.

The definition of negligence which I have just given you applied to both the plaintiff and the defendant.

1354 TURN OR DEVIATION: ASCERTAINMENT THAT MOVEMENT CAN BE MADE WITH REASONABLE SAFETY: LOOKOUT

You are instructed that a safety statute provides that no person shall turn into a private road or driveway unless and until such movement can be made with reasonable safety.

This statute requires the driver of the turning vehicle to exercise ordinary care to make an efficient lookout. This calls for him to exercise ordinary care

1580 COMPARATIVE NEGLIGENCE: BASIS OF COMPARISON

By your answer to Question 5, you will determine how much or to what extent each party is to blame for the accident in question. You will weigh the respective contributions of these parties to the accident and, considering the conduct of the parties named in the question, considered as a whole, determine whether one made a larger contribution than the other, and if so, to what extent it exceeds that of the other. In making your apportionment of negligence, you will fix the percentage of negligence attributable to each participant in proportion to how much the fault of each contributed to cause the accident, and by your answer to this question record your determination.

You will keep in mind that the percentage of negligence attributable to a party is not to be measured solely by the number of respects in which such party is found to have been at fault.

1285 SPEED: REASONABLE AND PRUDENT: REDUCED SPEED

The statute regulating speed of motor vehicles provides that "No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing," and that the driver shall exercise ordinary care to so regulate his rate of speed, " . . . as may be necessary to avoid colliding with any object, person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and using due care."

The statute also provides that the driver shall, consistent with the requirements I have just stated, drive at an appropriate reduced speed when approaching a hillcrest.

Appropriate reduced speed as used in this instruction is a relative term and means less than the otherwise lawful speed. An appropriate reduced speed is that speed at which a person of ordinary intelligence and prudence would drive under the same or similar circumstances.

It is for you to determine whether _____ was negligent with respect to speed under the conditions and circumstances then present and under the rules of law given to you by these instructions.

1290 SPEED: FIXED LIMITS

The statute further restricts the speed of motor vehicles at the time and location in question to 65 miles per hour in all events. Any speed in excess of that limit would be negligent speed regardless of the conditions,

Under a further provision of the statute which provides that no person shall drive a vehicle at a speed in excess of 65 miles per hour _____ any speed in excess of that limit would be negligent speed regardless of (other) conditions.

It is for you to determine whether _____'s speed was over said limit and, if under, whether it was nevertheless a negligent speed under the conditions and circumstances then present and under the rules of law given to you by these instructions.

to determine the presence, location, distance, and speed of any vehicle that might be affected by his movement. After having made these observations, the driver must also exercise reasonable judgment in calculating the time required for him to safely complete his turn without interfering with other vehicles within or approaching his course of travel.

1500 CAUSE

Questions 2 and 4 in the special verdict inquire as to whether or not the negligence of either the plaintiff _____, or the defendant _____, was a cause of the collision in question, assuming that you have found either or both of them negligent in some respects. These questions, 2 and 4, inquire whether the relation of cause and effect existed between the negligence of these parties, if found by you, and the collision.

There may be more than one cause of a collision. The negligence of one person alone might produce it, or the acts or omissions of two or more persons might jointly produce it. Before such relationship of cause and effect can be found to exist, however, it must appear that the negligence under consideration was a substantial factor in producing the collision, that is to say, that it was a factor actually operating and which had substantial effect in producing the collision.

1140 POSITION ON HIGHWAY ON MEETING AND PASSING: VIOLATION EXCUSED

Question(s) _____ inquire(s) whether _____ (the driver(s) named therein) was (were) negligent with respect to his (their) position on the highway.

The operation of a motor vehicle on the wrong side of the highway at the time of, (or immediately before), a collision is negligence unless there was an explanation satisfactory to you that the driver was free from negligence in being on the wrong side of the highway.

1575 COMPARATIVE NEGLIGENCE

Question 5 is the comparative negligence question, and reads as follows:

(read question)

Notice that you are not to answer this question at all unless you first find (it is found) that both _____ (name) and _____ (name) were negligent and further find (it is further found) that the negligence of each was a cause of the collision. If, by reason of your (the) answers to previous questions, you are required to answer this question, you will answer each subdivision with such percentage, or part of 100 per cent, which is by the greater weight of the credible evidence to a reasonable certainty proved to be attributable to the person named in such subdivision.

1105 MANAGEMENT AND CONTROL

You are instructed that it is the duty of every driver to exercise ordinary care to keep his vehicle under proper management and control to the end that when danger appears he may stop his vehicle, reduce his speed, change his course, or take such other means to avoid injury or damage as may reasonably appear proper and feasible.

OTHER INSTRUCTIONS

The judge might wish to give other instructions he deems necessary. It is felt that instructions should be kept to a minimum for time consideration, even though some authenticity be sacrificed.

Other instructions which might be given are:

- 110: Arguments of counsel
- 115: Objections of counsel
- 150: Damage question answered by court
- 215: Weight of evidence
- 1001: Negligence - Fault: (To be used in place of 1005, 1500, 1575 and 1580)

SPECIAL VERDICT

Question 1. Was the defendant, _____, negligent?

Answer: _____

Question 2. If you answer Question 1 "yes", then answer this question:
Was such negligence a cause of injury or damage to the plaintiff?

Answer: _____

Question 3. Was the plaintiff, _____, negligent?

Answer: _____

Question 4. If you answer Question 3 "yes", then answer this question:
Was such negligence a cause of injury or damage to the plaintiff?

Answer: _____

Question 5. If you answer "yes" to any two or more of Questions 1 through 4,
then answer this question:
Assuming the combined negligence of all the parties equals 100 per
cent, what percentage is attributable to:

The defendant, _____, : _____ per cent

The plaintiff, _____, : _____ per cent

Question 6. What sum of money will reasonably compensate the plaintiff? \$ _____

(Answered by the court)

Foreman or Forelady

MOCK TRIAL SCRIPT

LANDLORD-TENANT CASE

Prepared by

Attorney Jack Olson
Attorney John Winter

PARTICIPANTS IN TRIAL

Judge

Plaintiff - Landlord

Defendants - Tenants (only one need participate)

Plaintiff's Counsel

Defendant's Counsel

Witness for Plaintiff - Tenant (Married Woman)

Witness for Defendant - Tenant (Bachelor)

Jurors

STATEMENT OF FACTS

Two male university students over 21 have entered into a lease containing certain provisions. Tenants repainted living room of apartment after requesting landlord to repaint and he refused. Tenants have party on Friday night. Married woman tenant living across hall complains to landlord about party. Landlord calls students and asks them to stop party and later seeks to inspect the apartment and is refused entry. Landlord gives students notice to vacate. Students refuse. Landlord starts action to eject students.

OUTLINE FOR JUDGE AND ATTORNEYS

The landlord contends that the tenants breached the lease in the following respects:

1. Tenants refused to permit the landlord into the apartment for purposes of inspection.
2. Tenants painted without consent.
3. Tenants made disturbing noises and permitted singing and playing of musical instruments and radios in an objectionable manner.
4. Tenants played stereos, radios or other musical instruments between the hours of 11:00 p.m. and 8:00 a.m. in such a fashion as to be audible outside the apartment in which the instruments were located.

In response to the landlord's contentions, the tenants alleged as follows:

1. Landlord sought entry to their apartment at an unreasonable hour (11:00 p.m.)
2. Landlord unreasonably refused to give written permission to paint so, under the circumstances, they were justified in painting themselves. Further, painting bettered the apartment and the lease provision does not apply under these conditions.
3. There was no disturbing noise, singing or playing of any musical instrument or radio in an objectionable manner.
4. Any musical instrument or radio played after 11:00 p.m. was not audible in any other apartment and did not bother anyone. The complaining woman has a history of making unreasonable demands and is generally the type who would complain where others would not.

Lease Provisions

Tenants agree:

1. Not to use the premises for any purpose that would or might injure the reputation of the apartment building or project or the other tenants thereof.
2. To permit the landlord, at all reasonable hours, to enter upon the premises for the purpose of inspection.
3. Not to remodel or make any alterations, or additions in the premises without the prior written consent of the landlord.

Rules and Regulations

1. Disturbing noises, obnoxious odors, singing, playing any musical instrument or radio at any time in an objectionable manner are prohibited.
2. There shall be no playing of stereos, pianos, radios and other musical instruments between the hours of 11:00 p.m. and 8:00 a.m. except when so tuned as to be audible only in the apartment in which the instrument is located.

STATEMENT OF FACTS

LANDLORD

Landlord refused to repaint living room when requested by student tenants because he didn't think it needed it and had been painted two years ago. Married woman tenant calls at 9:30 Friday night to complain of noisy party. She has complained to landlord many times in the past year about condition of lawns, trash removal and poor laundry facilities.

Woman tenant had been told by landlord before she rented to apartment that he rented to college students.

In response to complaint from woman tenant, landlord called students at 10:00 p.m. and told students, "...those people better all be out of there in one-half hour. I might be over in a little while."

The landlord said, "I went to the apartment at 11:00 p.m. and the party was still going strong. I could hear music, singing, etc., through the door. I knocked on the door. The students refused to let me in." Landlord left premises. Landlord gave students notice to vacate. Students refused. Landlord started action to eject students.

STATEMENT OF FACTS

TENANTS

Paint peeling off living room wall after they moved into apartment. They asked landlord twice to repaint. Landlord refused saying that it had been painted two years ago and that he didn't think it needed to be repainted. Students repaint living room the same beige color as it was before.

Students had party on Friday night which started at about 7:00 p.m. Ten couples attended party, all over 18 years of age. Beer drinking, record playing, singing and dancing. Party lasted until about 1:00 a.m. The students said, "It was a relatively quiet party--at least it was quieter than many others we have had."

Landlord called students at about 10:00 p.m. and shouted over the phone to, "...get everybody out of there in one-half hour." They refused to let landlord in because they felt it was "an invasion of their privacy..." They received notice to vacate from the landlord but refused to leave.

STATEMENT OF FACTS

MARRIED WOMAN TENANT

Landlord had told her before she rented the apartment that he rented to college students.

She had seen "...some pretty wierd looking people coming into the apartment house about seven o'clock on Friday night--students, you know."

She was trying to watch a movie on television on Friday night. She could hardly hear the television because of the racket and commotion coming from the apartment across the hall. She thought she could hear bottles or glasses breaking. "It was just terrible, and it wasn't the first party they have had either."

Her husband was sleeping in the bedroom after a hard day's work.

She called the landlord about 9:00 p.m. to complain about the raucous party. She had talked to the landlord on several previous occasions about the general upkeep of the apartment lawn, etc.

STATEMENT OF FACTS

BACHELOR TENANT

He lives below defendants. He had been up to defendants apartment about a month ago to take back some chairs he had borrowed for a party. He had noticed at the time that the living room looked "...kind of shabby--the walls were peeling."

He didn't really know either of the defendants--just enough to say "hi" when he saw them in the hall.

He was home the Friday evening of the party watching television. He knew there was a party or something going on upstairs but it "...didn't bother him." He went to bed about 11:00 p.m. Friday night and doesn't remember hearing anything after that.

STATEMENT OF ISSUES

Whether or not 11:00 p.m. was a reasonable hour for purposes of inspection by the landlord.

Did the tenants breach their lease when they painted the premises?

Did the tenants make disturbing noises which were objectionable?

SUGGESTED INSTRUCTIONS

Question 1 of the Special Verdict asks whether 11:00 p.m. was a reasonable hour for purposes of inspection by the landlord. In considering the reasonableness of the hour, you must consider the reasonableness of the hour in the context of the case before you.

Question 2 asks whether the tenants breached their lease when they painted the premises. In considering this question, you should consider the meaning and intent of the lease provision in question and decide whether the actions of the tenants were in violation of that lease provision. (Here the judge may rule as a matter of law the tenants did not breach their lease.)

Question 3 asks whether the tenants made disturbing noises and permitted singing and playing of musical instruments and radios in an objectionable manner. In considering whether any noises made or singing and playing of musical instruments and radios were disturbing or were done in an objectionable manner, you should consider what would be disturbing or objectionable to a person of ordinary sensitivity. The question is not whether the sounds were disturbing or objectionable to any particular individual, or whether they were not disturbing or objectionable to a particular individual, but whether a person of ordinary sensitivity would find them disturbing or objectionable.

Question 4 asks whether the tenants played stereos, radios or other musical instruments between the hours of 11:00 p.m. and 8:00 a.m. in such a fashion as to be audible outside the apartment in which the instruments were located.

100 OPENING

Members of the jury, (this case) (these cases) will now be submitted to you in the form of a special verdict consisting of four questions. Your duty will be discharged by answering such of these questions as under the evidence and the Court's instructions it becomes necessary for you to answer in order to arrive at a completed verdict. It thereupon becomes the duty of the Court to direct judgment according to law and according to the facts as you have found them.

You are to answer the questions solely upon the evidence received on this trial. You are to be guided by the Court's instructions and your own sound judgment in considering the evidence in (this case) (these cases) and in answering these questions.

You should not concern yourselves about whether your answers will be favorable to one party or the other nor with what the final result of this law suit may be.

110 ARGUMENTS OF COUNSEL

You should consider carefully the arguments of counsel insofar as such arguments are based upon the evidence and insofar as such arguments will assist you in arriving at a just verdict. But the arguments and statements of counsel and their conclusions and opinions are not to be considered by you as evidence in this case. It is your duty to draw your own conclusions and your own inferences from the evidence and to decide upon your verdict according to the evidence and under the instructions concerning the law as given to you by the court.

115 OBJECTIONS OF COUNSEL

Attorneys for the parties not only have the right to object but have a duty to object to what they feel are improper questions asked of the witnesses, and no adverse inference is to be drawn from any objection made to any question, or from questions of attorneys which were not permitted to be answered in the course of the trial.

120 IGNORING JUDGE'S DEMEANOR

If during the course of this trial you have gained any impression that the court has a feeling one way or another in this case, then you are instructed that you should completely disregard any such impression.

180 FIVE-SIXTHS VERDICT

The law provides that a verdict in a civil case like this one, agreed to by five-sixths or more of the jury, shall be the verdict of the jury. Each answer made by the jury shall be agreed to by at least 10 of the jurors. You are advised that if you can do so consistently with the duty each of you owes as a juror, at least the same 10 jurors should concur in all the answers made. I ask you to try to be unanimous if you can.

(Select the proper following paragraph)

(If a juror disagrees with the answer made to any question, he will sign his name in the place provided after the question.)

(At the foot of the verdict you will find a place provided where dissenting jurors, if there be any, will sign their names and state the answer or answers with which they do not agree. Either the blank lines or the space below them may be used for that purpose.)

190 CLOSING

Now, members of the jury, this case is ready to be submitted to you for your serious deliberation. You will consider the case fairly, honestly, impartially, and in the light of reason and common sense. Give each question in the verdict your careful and conscientious consideration. And, in making each answer, you will free your minds of all feelings of sympathy, bias, or prejudice. Let your verdict speak the truth, whatever the truth may be.

When you retire to the jury room, your first duty will be to elect one of your number as foreman or forelady, who will preside over your deliberations and write in the answers you have agreed upon. When your deliberations are concluded and your answers inserted in the verdict, the foreman or forelady will sign the verdict, fix the date thereon, and all of you will return with the verdict into the court.

The clerk may now swear the bailiffs.

BURDEN OF PROOF

The burden of proof--is on the plaintiff. By burden of proof is meant the duty resting on the party having the affirmative of an issue to satisfy or convince the jury, to a reasonable certainty, by the greater weight of the credible evidence, of the truth of the contentions of that party.

It is not enough that the evidence of the party on whom the burden of proof rests is of slightly greater weight or convincing power; it must go further and satisfy or convince the minds of the jury to a reasonable certainty before the burden of proof is discharged.

400 CREDIBILITY OF WITNESS

It is the special duty of the jury to scrutinize and weigh the testimony of witnesses and to determine the effect of the evidence as a whole. You are the sole judges of the credibility of the several witnesses and the weight and credit to be given to their testimony. In determining such weight and credit, you should, as to the several witnesses, consider their interest or lack of interest in the result of this trial; their conduct and demeanor on the witness stand; their bias or prejudice, if any has been shown; the clearness or lack of clearness of their recollection; their opportunity for observing and knowing the matters and things given in evidence by them; (and the reasonableness of the testimony given). (You should give careful consideration to the inherent reasonableness, or absence of it, of any testimony given by any witness, and consider the probabilities, that is, whether it is reasonably probable under all the circumstances that certain things were done or were not done, or that certain things were said or were not said.) You should take into consideration also (-----and) all other facts and circumstances appearing on the trial which either tend to support or discredit the testimony of the witness, and then give to the testimony of each witness such weight and credit as you believe it fairly entitled to receive.

SPECIAL VERDICT

	<u>Yes</u>	<u>No</u>	<u>Dissenting</u>
1. Was 11:00 p.m. a reasonable hour for purposes of an inspection by the landlord?	_____	_____	_____
2. Did the tenants breach their lease when they painted the premises? *	_____	_____	_____
3. Did the tenants make disturbing noises and permit singing and playing of musical instruments and radios in an objectionable manner?	_____	_____	_____
4. Did the tenants play stereos, radios or other musical instruments between the hours of 11:00 p.m. and 8:00 a.m. in such a fashion as to be audible outside the apartment in which the instruments were located?	_____	_____	_____

* Note: The judge may rule as a matter of law that the tenants did not breach their lease when they painted the premises.

Foreman or Forelady

MOCK TRIAL SCRIPT

DRUNK DRIVING CASE

Prepared by

Attorney Joseph R. Haack

Attorney Howard Goldberg

PARTICIPANTS IN TRIAL

Judge

Defendant - student, male, 21 years old

Student - friend of defendant, male, 21 years old

Doctor - expert witness for defendant, male, 50 years old

Policeman No. 1 - male, 35 years old

Policeman No. 2 - male, 24 years old

Plaintiff's counsel

Defendant's counsel

Jurors

STATEMENT OF FACTS

The defendant was involved in an automobile accident on the morning of _____, 19____. Policeman No. 1 was a witness to the accident and upon investigation the defendant was charged with violating Section 346.63(1)(a) Wisconsin Statutes (operating a motor vehicle while under the influence of an intoxicant)..

This is the defendant's first charge for such an offense and if found guilty he could be subjected to a possible fine of \$200 or imprisonment of six months or both. Section 346.65(2) Wisconsin Statutes.

STATEMENT OF FACTS

POLICEMAN NO. 1

_____ is a policeman for the Town, City
or Village of _____. He has been a policeman there for
10 years. On the _____ day of _____,
19____, at approximately 1:00 a.m. in the morning, he was driving down _____
Street about a block behind the defendant's car. He noticed the car weave slightly
to the left and then to the right and then directly into the left rear fender of
a car which was properly parked at the right hand curb. He stopped at the scene
of the accident, opened the door and helped the defendant out of his car. The
defendant was groggy and didn't seem to know where he was. The only remark uttered
by the defendant was, "I don't know who's more smashed, me or that car." The de-
fendant had a strong odor of alcohol about him. He asked the defendant to walk
in a straight line behind his car. The defendant stumbled but did not fall on
three occasions. He then asked the defendant for his drivers license. The de-
fendant fumbled through his billfold for about a minute and a half before locating
his license. He helped the defendant into the squad car and took him to the police
station. While in the car he told the defendant that he was arresting him for
driving under the influence of intoxicants. When he arrived at the police station,
he and _____, another policeman on duty at the station, took
the defendant to an empty room where they had the defendant undergo several tests.
He was first asked to walk a straight line, toe to heel, across the floor of the
room. He wandered from the line, more or less stumbling, about four times. He
was asked to identify some coins which he was unable to do. These coins were held

about six feet from his face. He then placed the coins on the floor and asked the defendant to pick them up. The defendant missed the first coin because he was standing on it, but was able to pick up the other two. When the defendant requested an attorney, but did not know his phone number, this officer gave him a phone book. The defendant at first held the phone book upside down looking for a number, then he turned it right side up, but was unable to find his attorney's name. The officer then helped him and dialed the attorney. When the attorney arrived, the police issued a citation on the defendant for driving under the influence of intoxicants. Policeman No. 1 has observed many people who have been intoxicated during his 10 years as a policeman, and in view of all the facts and observations which he made concerning the defendant it would be his opinion that the defendant was under the influence of intoxicants at the time of his accident.

STATEMENT OF FACTS

POLICEMAN NO. 2

_____ is a policeman for the City, Town or Village of _____ and has been on the police force approximately two months. At about 1:30 a.m. on the morning in question he first observed the defendant who was with Policeman No. 1. The defendant was being helped into the police station by Policeman No. 1. Policeman No. 2 asked the defendant for his drivers license and the defendant gave him his wallet. Then the three of them went to a room where the defendant underwent certain tests. The defendant could not walk toe to heel in a straight line nor could he identify coins, but he was able to pick up two of them. One of them he never could because he kept standing on it. Moreover, the defendant had a difficult time with the phone book. There was a strong odor of alcohol about the defendant. He did take the defendant's glasses from him when he noticed that the defendant was staggering in the heel to toe test. He was concerned for the safety of the glasses and the defendant. Although he has not experienced too many people under the influence, in his opinion the defendant clearly was.

STATEMENT OF FACTS

DEFENDANT-STUDENT

_____ is a student at the local college or branch of the university. He is a B+ student and 21 years of age. He resides at _____ in the Town, City, Village of _____, _____. On the _____ day of _____, 19____, he had gone to the local school library to prepare for an exam which he had to undergo the following day. He arrived at the library at approximately 8:00 p.m. At 9:30 p.m. he began to feel drowsy. He admonished himself for having a bottle of beer before going to the library, and then he took a 15 minute break. During that break, he took a pill which was advertised as a stimulant and carried the brand name "AWAKE". When he returned to the books, he found that he was no longer drowsy and he accomplished more reviewing than he had anticipated. At 11:00 p.m. the library closed, and he departed from the library with his friend, _____. He and his friend stood outside the building discussing the exam scheduled for the next day for about 45 minutes. They then decided to go to the local beer bar for a drink. The name of the bar was _____ and it was located about a block and a half from the library. They arrived at the bar at approximately 11:50 p.m. During the next 45 minutes, they each consumed three bottles of beer. Then they both left the bar, and each went on his way home. The defendant went to his 1965 Mustang and proceeded to travel down _____ Street in a _____ direction. The street was a four-lane highway even when automobiles were parked along the curb. The defendant had traveled about two blocks. The next thing he remembers is that a policeman was helping him out of

his car. He then saw another automobile whose smashed left rear fender was nicely fitted into his crumpled right front fender. The only thing he recalls telling the policeman is that he did not know what had happened. The policeman had him walk around to make sure that he wasn't seriously injured. He recalls stumbling once because the curbing was not flush with the street. He then went with the policeman to the local station. When he got there he gave his drivers license to another policeman who also took his glasses from him. He was led to a room where he was told to walk toe to heel on a line painted on the floor. He did so without problems. He was asked to identify some coins, which he could not do because he was without his glasses and was near-sighted. Then, he was asked to pick up the coins from the floor which he did without problems. After he had picked them up he held them close to his face and was able to identify them without his glasses. The policemen left the room for a few minutes; when they returned, they asked him how much he had had to drink. He told them that he wanted to talk to his attorney. They gave him a phone book so that he could look up his attorney's number but he was unable to do so without his glasses. Then one of the officers called his attorney for him and in a matter of minutes his attorney was there. The police then cited him for driving under the influence of intoxicants and after a few phone calls by his attorney, he was driven home by his attorney.

STATEMENT OF FACTS

STUDENT-FRIEND

_____ is a student at the local college or branch of the University. He resides at _____ in the Town, City or Village of _____, _____. On the _____ day of _____, 19____, he saw the defendant in the library, but did not talk to him until 11:00 p.m. of that evening when he met him outside of the library building. At that time he spoke to him concerning an exam which both were to undergo the following day. He recalled that the defendant told him about this marvelous pill that he had and that he gave him one of them stating that they would keep him awake when he studied for exams. Around 11:45 p.m. he and the defendant went to a local bar where they each had several bottles of beer. They were there about an hour. He doesn't remember how many bottles they had, but his guess would be between 3 and 5. At about 1:00 a.m. he got into his car and drove home. When he last saw the defendant, the defendant appeared to be all right. He never took the marvelous pill because he had forgotten about it later and his mother ran his shirt through the laundry and the pill was in his shirt pocket. On previous days he had had a few beers with the defendant, but in all the time he had known the defendant had never seen him intoxicated.

STATEMENT OF FACTS

DEFENDANT'S DOCTOR

_____ is a doctor and practices medicine at the local clinic. He specializes in internal medicine. He received his medical degree from the University of Wisconsin, did his internship at St. Mary's Hospital in Madison and then returned to the University Hospitals for a four-year residency in Internal Medicine. During that period he did some research work and wrote an article which was published in the Wisconsin Medical Journal concerning commercially sold stimulants. The title of the article was "Alcohol and Stimulants". One of the stimulants on which he had done research was "AWAKE". His research revealed that the mixture of alcohol with such stimulants as "AWAKE" caused an opposite reaction, that is rather than act as a stimulant the pill would act as a relaxant when mixed with alcohol. The effect of mixing alcohol with a stimulant depends upon the individual who has consumed both. It was very likely that the defendant was an individual severely effected by the combination of alcohol and "AWAKE". This doctor can testify that "AWAKE" is effective for a period of two to four hours, depending on the individual. "AWAKE" is not a drug; it can be obtained without a prescription.

SOLE ISSUE

Was the defendant under the influence of an intoxicant
at the time of the accident?

SUGGESTED INSTRUCTIONS

Section 346.63(1)(a) of the Vehicle Code of Wisconsin is violated by one who operates a motor vehicle while under the influence of an intoxicant.

Before the defendant may be found guilty of operating a vehicle while under the influence of an intoxicant, the State must prove by evidence which satisfies you beyond a reasonable doubt that there were present the following two elements of this offense:

First, that the defendant operated a motor vehicle;

Second, that the defendant was under the influence of an intoxicant at the time of said operation of the motor vehicle.

The first element of this offense requires that the defendant operated a motor vehicle. A motor vehicle is "operated" as soon as it is set in motion.

The second element of this offense requires that the defendant was under the influence of an intoxicant at the time he operated the motor vehicle.

The expression "under the influence of an intoxicant" covers not only all the well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging in any degree in intoxicating liquors (including beer) and which tends to deprive him of that clearness of intellect and control of himself which he would otherwise possess.

A person who is even to the slightest extent under the influence of an intoxicant in the common and well-understood acceptance of the term is, to some degree at least, less able either mentally or physically, or both, to exercise the clear judgment and steady hand necessary to handle as powerful and dangerous a mechanism as a modern motor vehicle with safety to himself and the public. Not every man who has consumed alcoholic beverages falls within the bar of the statute. If that consumption of alcoholic beverages does not cause him to be influenced in the ordinary and well understood meaning of the term, he is not under the influence of an intoxicant within the meaning of the statute.

If you are satisfied beyond a reasonable doubt from the evidence in this case that the defendant was operating a motor vehicle while under the influence of an intoxicant, then you should find the defendant guilty.

If, however, you are not so satisfied, then you must find the defendant not guilty.

BURDEN OF PROOF & PRESUMPTION OF INNOCENCE

The term "reasonable doubt" means a doubt based upon reason and common sense. It is a doubt for which a reason can be given, arising from a fair and rational consideration of the evidence or want of evidence. It means such a doubt as would cause a man of ordinary prudence to pause or hesitate when called upon to act in the most important affairs of life.

A reasonable doubt is not a doubt which is merely fanciful or speculative, such as a skeptical mind might suggest. A doubt which ignores a reasonable interpretation of the evidence, or which arises from sympathy or from fear to return a verdict of guilty, is not a reasonable doubt. A reasonable doubt is not merely a doubt such as may be conjured up in the mind of one desiring to escape the responsibility of a decision.

While it is your duty to give the defendant the benefit of every reasonable doubt, you are not to search for doubt. You are to search for the truth and give the defendant the benefit of a reasonable doubt if it arises in your minds after you have carefully considered all the evidence in the case.

The law presumes every person charged with the commission of an offense to be innocent. This presumption attends the defendant throughout the trial and prevails at its close unless overcome by evidence which satisfies the jury of his guilt beyond a reasonable doubt. The defendant is not required to prove his innocence.

The burden of proving the defendant guilty is upon the State. Before you can return a verdict of guilty, the State must prove to your satisfaction beyond a reasonable doubt that the defendant is guilty.

If you can reconcile the evidence upon any reasonable hypothesis consistent with the defendant's innocence, you should do so and find him not guilty.

DEFENSE EXHIBIT

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★
★ "AWAKE" ★
★ A non-drug -- NOT HABIT FORMING ★
★ No Prescription Required ★
★ AWAKE -- a stimulant which is ef- ★
★ fective for at least three hours. ★
★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

MOCK TRIAL SCRIPT

Auto Accident

(5-year-old Boy - Driver polio victim)

Prepared by:

Attorney Frederic J. Berns

PARTICIPANTS IN TRIAL

Judge

Gerald Ford - Driver of defendant vehicle

Jack Carter - Father of injured boy

Lillian Carter - Mother of boy

Barney Fife - police officer

Dr. Julius Irving - Doctor who treated boy's injury

Marcus Johnson - truck driver witness

Plaintiff's attorney

Defendant's attorney

Jurors:

NOTE: This case is based on the facts of Lisowski v. Milwaukee Automobile Mutual Insurance Co., 117 NW 2nd 666, 17 Wis 2nd 499.

G

STATEMENT OF FACTS

At 2:30, May 18, 1976, on Main Street in Arcadia, Wisconsin, an automobile driven by Gerald Ford struck 5 year old Jimmy Carter. Just prior to the accident, Jimmy's father Jack Carter, had crossed the street in the middle of the block. Jimmy's mother Miss Lillian Carter, was with the child before he crossed the street, and saw the entire accident.

Cars were parked on both sides of the street, and Jimmy emerged from between two parked cars and ran into the North lane. He was struck by the middle of the front of Ford's auto. Ford was westbound at the time of the accident, and there is conflicting testimony as to whether Jimmy walked or ran into the street. There is also conflicting testimony concerning the distance he traveled after emerging from between the parked cars. Ford's testimony is conflicting on this point, but is to the effect that he did not see the boy until the child was in front of the car and about to be hit. Ford was traveling at 20 m.p.h. in the middle of the north lane at the time of the impact.

Ford had polio in 1965, and at the time of the accident he was 20 years old and weighed 115 pounds and was 5 feet 5 inches tall. Two fingers on his right hand were disabled and there was some evidence that his arms were weak.

Defendant - Gerald Ford

Gerald Ford is 20 years old, had polio at the time of the accident which had left him disabled in his right hand. He weighed 115 pounds and was 5 feet 5 inches tall. His arms were weak. The weather at the time of the accident was clear and the pavement was dry.

At first Gerald Ford testified that he saw Jimmy Carter when he emerged from the cars, but later on further questioning stated that he did not see him until just before impact. Gerald testified that he was traveling at 20 m.p.h. at the time of the accident.

"I put the brakes on as soon as I saw him."

"It happened so fast. I couldn't stop."

"The shoes were in the street, I guess that I knocked the shoes off the boy."

Gerald claims that he did not back up after stopping the car. Gerald claims to have seen skid marks before the location of the shoes in the street.

Gerald entered a plea of guilty to failing to have his car under control and paid a \$25.00 fine.

Miss Lillian told Gerald a few days after the accident that it wasn't Gerald's fault. It could happen to anybody.

"Only one second elapsed from the time of first seeing Jimmy until the impact."

"I saw the car had struck him and then I put on the brakes."

Dr. Julius Irving "Dr. J."

Dr. J. treated Jimmy Carter at the emergency room of the Arcadia hospital. He discovered a fracture of the left femur. He reduced this fracture by placing the boy in traction. He remained in traction until June 11. A Spica cast was then applied from hip to ankle, and he was discharged from the hospital on June 13. The cast developed a rather bad sore under it, and had to be removed. He still could not walk well at the time of the trial.

Mother - Miss Lillian Carter

Jimmy was in perfect health prior to the accident. Miss Lillian was in the Foodorama with Jimmy just prior to the accident. The first thing that Miss Lillian saw of the accident was the Ford car throwing Jimmy in the air. She testifies that the shoes were lying in the street at the location that the car hit Jimmy. Miss Lillian saw the Ford car back up after stopping. Before the ambulance came, Miss Lillian went to the hospital herself. Jimmy's leg was in traction while he was in the hospital. Miss Lillian talked to Gerald Ford.

Sergeant Barney Fife

Police Officer in the City of Arcadia, 42 years old. He was at the scene of the accident shortly after it happened. He observed shoes lying the street 88 feet from the front bumper of the Ford auto. There were no skid marks West of the shoes and from the front bumper there were skid marks extending 44 feet West back from the car.

The officer has a portion of the manual for motor vehicles which will be introduced as evidence. Also two pictures taken some time after the accident will be available.

Mr. Ford was given a ticket by Mr. Fife for improper control of his auto.

WITNESS - Jack Carter

Jack Carter is a 40 year old farmer who lives in the town of Arcadia.

At 1:00 in the afternoon he came to the City of Arcadia with his wife Miss Lillian Carter and son Jimmy Carter to do the weekly shopping. After being in the city for approximately 1 and 1/2 hours at about 2:30 he crossed the street in the middle of the block. Gerald Ford was driving East. Jack Carter saw the Ford Auto, and then saw the boy Jimmy cross the street. Jimmy was with his mother Miss Lillian Carter just prior to crossing the street.

The car hit Jimmy and proceeded about 50 feet down the street before stopping. Jimmy lay on the ground for about 20 minutes unconscious. Blood was running from his mouth and ears. His head was pure blood and his eyes were shut.

Jimmy stayed in the hospital for about 4 weeks. He lost two teeth in the accident, and had a cut on the top of his head, and a broken femur. He was in a cast about 8 weeks and in bed for the same length of time unable to walk.

After he was home for about 6 weeks, a big hole developed in the back of the heel, under the cast. He complained of great pain at home and finally screamed out so badly at night that he was taken back to the doctor. The doctor cut off the cast, and the ankle was puss front and back, the leg was swollen twice its normal size. The doctor washed off the puss and you could see the bone clearly.

Jimmy then went back to the doctor each day for about 25 to 30 days. Jimmy could not walk until September 30. He still does not walk correctly and has to wear special shoes.

Witness: Marcus Johnson

Marcus has been a truck driver all his life. He is 31 years old and lives in Arcadia, Wisconsin. Johnson was sitting in a car on Main Street looking West. He heard the impact, looked up and saw a body falling off the front of a car. He saw the car proceed East 100 feet and stop, then backing up to the body lying in the street. Later he identified the boy in the street as Jimmy Carter. He later also identified the driver of the car as Gerald Ford. He estimated that the car was travelling at 25 m.p.h. at the time of the accident.

STATE OF WISCONSIN

CIRCUIT COURT

TREMPEALEAU COUNTY

JIMMY CARTER, an infant by
Jack Carter, his Guardian,
and JACK CARTER,

Plaintiffs

SPECIAL VERDICT

-vs-

GERALD FORD,

Defendant

QUESTION 1: Just before the accident in question, was the defendant, Gerald Ford, negligent in the operation of his automobile with respect to:

- a) Lookout? _____
- b) Speed? _____
- c) Management and control? _____

QUESTION 2: If you answer "Yes" to any of the subdivisions of Question 1, then answer the corresponding subdivisions here following:
Was the negligence a cause of the accident and resulting injuries:

- As to subdivision (a) _____
- As to subdivision (b) _____
- As to subdivision (c) _____

QUESTION 3: What sum of money will fairly and reasonably compensate Jimmy Carter for his injuries?

Answer: \$ _____

QUESTION 4: What sum of money will fairly and reasonably compensate Jack Carter:

- a) For additional home and personal nursing care rendered to Jimmy Carter because of the injuries sustained?

Answer: \$ _____

- b) For hospital, medical and dental expenses incurred for the care and treatment of Jimmy Carter?

Answer: \$ _____

If jurors dissent

Foreman

Name _____

Questions to which juror dissents:

Exhibit 1

DR. "J" JULIUS IRVING M. D.

MAIN STREET

ARCADIA, WIS.

Telephones: Office, 4375; Residence, 4372

DATE _____

Mr. James Carter

Arcadia,

Wisconsin.

EXHIBIT

SEP 6 1961

GEORGE F. BRUNNER
Court Reporter
24th Judicial Circuit

TO PROFESSIONAL SERVICES son James

1,500.00

Treatment of injuries received in car accident 5/18/
 May 18th to June 14th inclusive daily hospital visits
 June 27 -29 July 2,5,8,14,19,21,23,25,27,29, Aug.1,3,5,8,
 11,15, 19,24, 27 Sept. 10 Out patient hospital visits
 Sept. 17, 27, 1960 office visits

RECEIVED PAYMENT

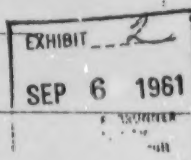
Exhibit 2

ARCADIA, WIS., June 6, 19

James Carter

Arcadia, Wisconsin

IN ACCOUNT WITH



ST. JOSEPH'S HOSPITAL

May 18-				
June 13 '60	To 26 Days Hospital Service			\$ 1512.00
	Emergency			
	Operating Room			10.00
	Anesthetics (2)			18.00
	Dressing Medicine 3.50			3.50
	To X-Ray			40.00
	Laboratory			3.00
	Intravenous			
	Treatments Cast			25.00
	Oxygen			
June 26 to	Extras Total outpatient dressings,			61.75
Sept. 28 '60	& X-rays			17.00
	Rental on crutches			2.00
				\$ 1692.25

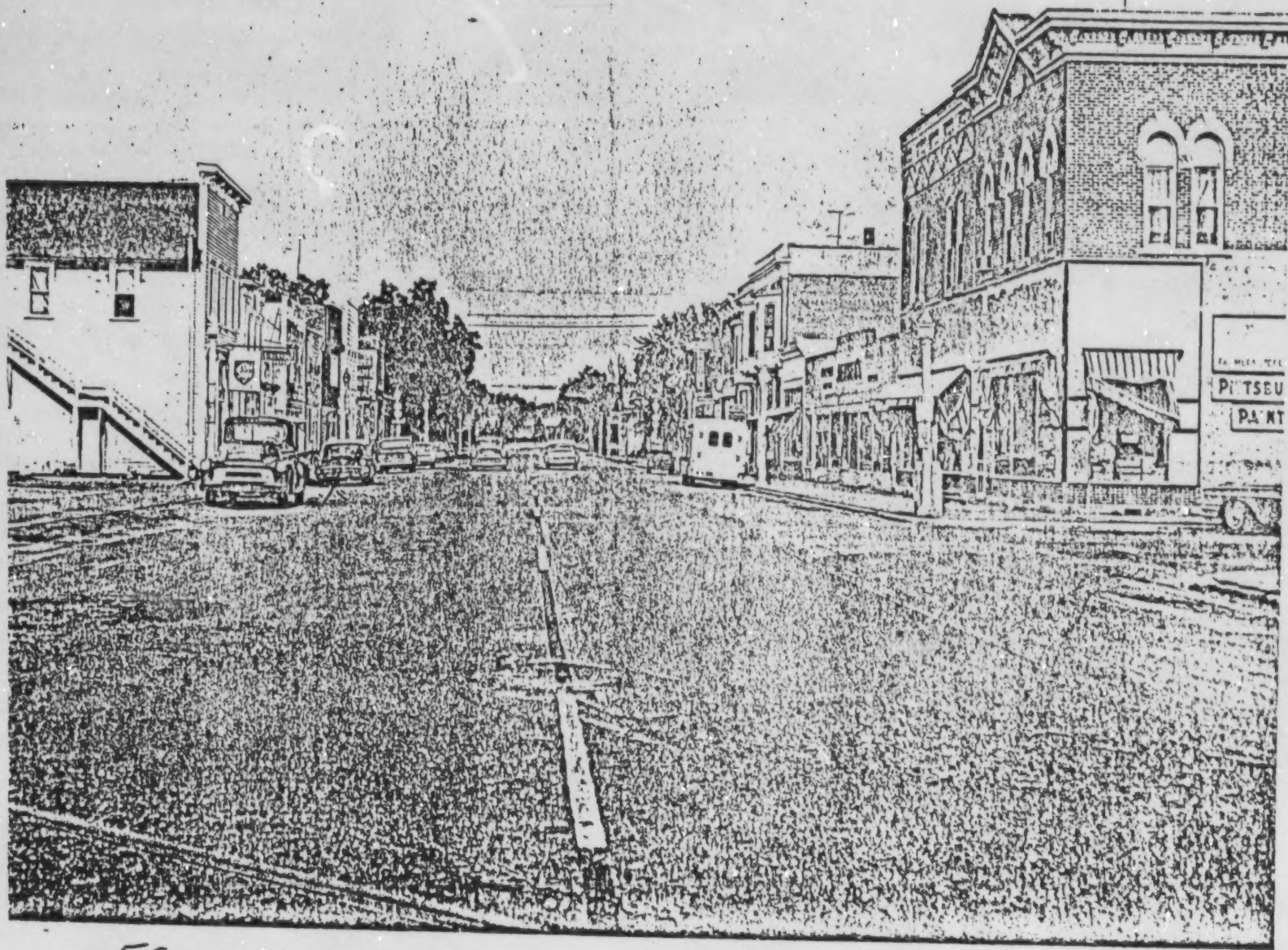


Exhibit 3

100 feet east of middle of intersection of Main and
265 Grant street in Arcadia, camera facing west.



Exhibit 4: 100 feet west of middle of intersection of
Main and Jackson street on main street, camera
facing east.

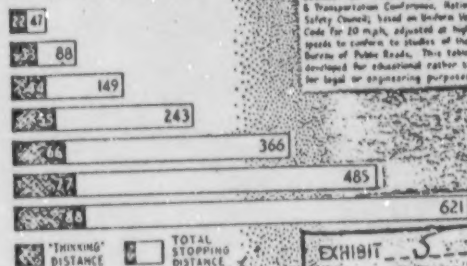
266

Exhibit 5

SPEED

STOPPING DISTANCE IN FEET
ON DRY, LEVEL PAVEMENT

20 MILES PER HOUR	29 FEET PER SECOND
30 MILES PER HOUR	44 FEET PER SECOND
40 MILES PER HOUR	59 FEET PER SECOND
50 MILES PER HOUR	74 FEET PER SECOND
60 MILES PER HOUR	88 FEET PER SECOND
70 MILES PER HOUR	103 FEET PER SECOND
80 MILES PER HOUR	117 FEET PER SECOND



SOURCE: Committee on Speed, Traffic & Transportation Conference, National Safety Council, based on Uniform Vehicle Code for 10 mph, adjusted at higher speeds to conform to studies of the U.S. Bureau of Public Roads. This table was developed for educational rather than for legal or engineering purposes.

EXHIBIT 5
SEP 6 1961
GERTRUDE P. BRUNNER
Court Reporter
24th Judicial Circuit

Hot Weather

A motorist who must drive long distances during hot weather should give special attention to his tires. Heat is the enemy of rubber. Most tire failures occur during hot weather. The higher the speed of the vehicle, the greater the amount of heat that will be generated as the result of friction between the moving tire and the hot pavement.

During a "heat wave" drivers and passengers, as well as pedestrians, may be inclined to become weary and even irritable, which in turn is not conducive to clear thinking. Good judgment is absolutely essential to safe driving, so keep cool even in hot weather.

Cold Weather

Reduced visibility, inadequate traction and temperature changes are triple threats to your safety on the road during the winter season.

You can't change the weather, but you can keep your windshield wiper blades in good condition and see that your defroster is working properly. After a storm, clear all snow and ice from your windshield and other windows, headlights, taillights and turn signals.

N1

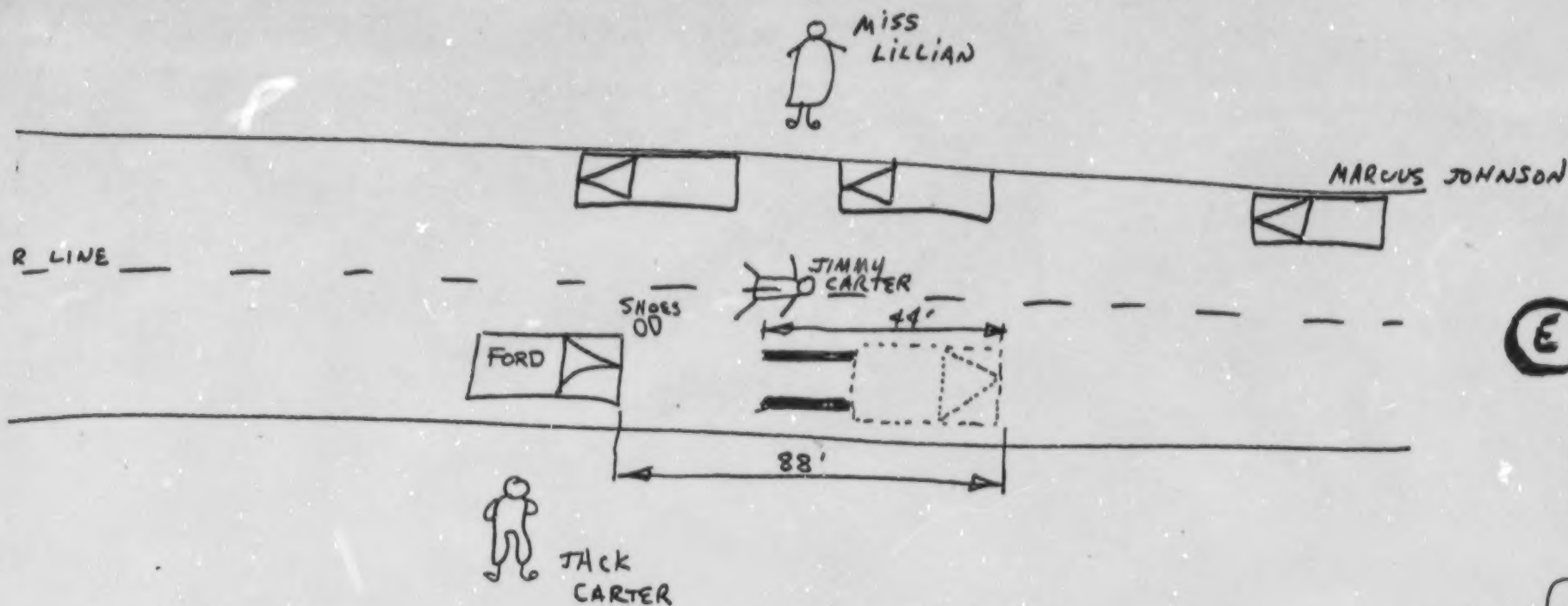


DIAGRAM OF ACCIDENT LOCATION

JURY INSTRUCTIONS

Members of the Jury, this case will now be submitted to you in the form of a special verdict consisting of four questions.

Several copies of the verdict have been given to you to aid you in following the arguments of the attorneys and the Court's instructions.

Certain questions in the special verdict are only to be answered in the event that you answered a preceding question in a certain manner. Read the introductory portion of each question very carefully before you undertake to answer it.

All of the questions of the special verdict which you are to answer, except Question 3 and the questions relating to damages, are to be answered either "yes" or "no".

Question 1 of the special verdict reads as follows:

"Just before the accident in question was the defendant, Gerald Ford, negligent in the operation of his automobile with respect to:

- (a) Lookout?
- (b) Speed?
- (c) Management and control?"

This question contains the word "negligence". "Negligence" has the same meaning as the phrase "failure to exercise ordinary care."

A person is negligent when he fails to exercise ordinary care. Ordinary care is the degree of care which the great mass of mankind ordinarily exercises. A person fails to exercise ordinary care when, without intending to do any wrong, he does an act or omits a precaution. Negligence may also be said to mean a want of care and caution.

In addition to this general definition of negligence, there are other rules of law as well as statutes enacted by the Legislature

for safe operation of motor vehicles. A person who fails to comply with such rules or statutes is negligent, as that term is used in the verdict and in the Court's instructions.

It is the duty of every operator of a motor vehicle to exercise ordinary care to keep a careful lookout ahead and about him. The exercise of ordinary care requires him to make observations at a point or points where his observations will be efficient for protection from injury to person or property, and requires the seasonable and effective use of a driver's sense of sight to timely observe not only the presence, location, and movement of other users of the highway, pedestrians as well as vehicles, but obstructions to vision and everything else that might warn him of possible danger.

It is for you to determine whether Gerald Ford was negligent with respect to speed under the conditions and circumstances then present and under the rules of law given to you by these instruction.

The statute further restricts the speed of motor vehicles at the time and location in question to twenty-five miles per hour in all events. Any speed in excess of that limit would be negligent speed regardless of the conditions.

Subdivision (c) of Question 1 inquires as to whether Gerald Ford was negligent as to the management and control of his vehicle. In this connection you are instructed that it is the duty of every driver to exercise ordinary care to keep his vehicle under proper management and control to the end that when danger appears he may stop his vehicle, reduce his speed, change his course, or take such other means to avoid injury or damage as may reasonably appear proper and feasible.

Question 2 of the special verdict reads:

"If you answer "yes" to either of the subdivisions of Question 1, then answer the corresponding subdivisions here following: Was such negligence a cause of the accident and resulting injuries:

As to subdivision (a), (b), and (c)?"

This question inquires as to whether or not the negligence of Gerald Ford was a cause of the accident in question, assuming that you have found him negligent in some respects.

Before you can make allowance for future damages, you must be convinced that such damages will continue into the future. In assessing the damages of Jimmy Carter, do not duplicate the sum which has been inserted by the Court in answer to Question 4.

In answering Question 3, you will insert such sum of money as you are satisfied will fairly and reasonably compensate Jimmy Carter for such pain and suffering and such impairment of health, physical ability, and bodily functions, and for such disfigurement from his scars and the injury to his teeth as you find he has suffered to date.

You may consider the deprivation suffered by him of the usual activities, benefits and enjoyments of one his age.

The law provides that a verdict in a civil case like this one, agreed to by five-sixths or more of the jury, shall be the verdict of the jury. Each answer made by the jury shall be agreed to by at least ten of the jurors.

At the foot of the verdict you will find a place provided where dissenting jurors, if there be any, will sign their names and state the answer or answers with which they do not agree. Either the blank lines or the space below them may be used for that purpose.

When you retire to the jury room, your first duty will be to elect one of your number as foreman or forelady, who will preside over your deliberations and write in the answers you have agreed upon. When your deliberations are concluded, and your answers inserted in the verdict, the foreman or forelady will sign the verdict, fix the date thereon, and all of you will return with the verdict into the court while court is in session.

MOCK TRIAL SCRIPT

HOMICIDE CASE

Prepared and revised by:
Bryan Frame, Attorney
Waukesha, Wisconsin

PARTICIPANTS IN TRIAL

Judge: A local attorney

Prosecutors: Two students selected from the class

Defense Counsel: Two students selected from the class

Jurors: Twelve (optional: six) students from the class

Defendant: Richard Starkey

Husband: Paul McCartney

Defendant's Girlfriend: Penny Lane

Police Officer: Sgt. John Pepper

Witness: George Harrison

OUTLINE FOR JUDGES AND ATTORNEYS

1. Most importantly, strive for a proper decorum in the Courtroom without being oppressive. The students have generally been sensitive to this need. We do want this to feel and sound like a real Courtroom.
2. Be aware of crucial objections that are not made. Feel free to then make an "Instructive Objection" in the form of "you meant to object on the grounds of hearsay." These should, as mentioned, be made if the flaw is a glaring one.
3. If material brought up on questioning is not in the script, students should object on the basis of "No foundation."
4. Feel free at all times to call counsel to the bench for a conference if you, or they, feel unsure about a matter. This is proper and generally a fine way to clarify problems.
5. Any time it seems appropriate, feel free to dismiss the jury to argue a point of law. This adds realism and lets the remainder of the class hear the attorneys debate the issue.
6. Explain rulings, objections and procedures as you go along to keep class informed. Keep within reasonable limits so as not to prejudice jury or slow things down too much.
7. You may want to jot down notes on where attorneys did well, or missed important items in presenting and proving case. This will be useful when we, as a class, critique the trial process with you.
8. The teacher will work to keep you aware of time limits. Feel free to seek advise on when to recess.
9. In essence, be a guiding hand without overdoing strict adherence to rules.

10. Below are several of the guidelines given to attorneys:

- a. Only one attorney may question any given witness--no double questioning or switching off on questioning.
- b. Attorneys must remain seated except when using evidence or during opening and closing statements.
- c. Attorneys and witnesses must speak loudly. Help us enforce this crucial requirement so all are involved in the learning process.
- d. Witnesses may not take scripts to stand when testifying.

STATEMENT OF FACTS

The defendant, Richard Starkey, is charged with violating 940.09 Wisconsin Statutes, "Homicide by Intoxicated Use of Vehicle or Firearm." For simplicity, the prosecution and defense have stipulated (agreed) that Linda McCartney, wife of Paul McCartney, died in the accident and that the death was the result of the accident. The judge shall instruct the jury as to this stipulation.

The prosecution will select students to play the roles of McCartney, Pepper, and Harrison. The defense will select students to play the parts of Starkey and Lane. Counsel may elect not to call one or more of its own witnesses, although opposing counsel may then call such witness (except the defendant).

The materials are adapted from Bennett v. State, 54 Wis. 2d 727 (1971), but substantial variances have been incorporated to permit greater latitude in the presentation of the case.

At the close of the trial, the judge shall instruct the jury, using Wisconsin Jury Instruction Nos. 100, 1185, 162, 140, 190, 160, and 515 in that order.

SCRIPT

Paul McCartney

My name is Paul McCartney. I reside at 1550 Indiana Lane, City of _____, Wisconsin. I am employed as a department store manager. My age is twenty-six.

On May 17, 19__, at approximately 7 p.m., my wife, Linda, my four-year-old daughter, and I were driving west on highway ____, which is a six-lane divided highway in _____ County, Wisconsin. I was driving in the center lane at 45-50 m.p.h. As we reached the overpass of Hope Road, I felt a thud at the rear of the car and saw the bridge abutments come flying toward me. I lost control of the car at this point. I did not see the defendant's car strike my car.

The next thing I remember is waking up in the hospital, where a nurse told me, "Your wife is dead because of what that drunken fool did." The nurse also said she knew Starkey couldn't handle his liquor and drove "crazy" when he was drunk.

SCRIPT

George Harrison

My name is George Harrison. I live at 775 Elm Street, _____, Wisconsin. I'm married, thirty-two years old, and employed as a truck driver. In that job, I drive about 60,000-70,000 miles per year, and I drive my own car about 25,000 miles per year. I've been a truck driver for about ten years.

On May 17, 19__, at 7 P.M., I was driving west on the entrance ramp to Highway _____ near Hope Road. As I was about to enter the highway, a green Buick passed me at about 45-50 m.p.h. I was travelling at 25 to 30 m.p.h. at that point. The Buick went over the crest of a slight hill ahead of me and suddenly a red Dodge passed me on the highway at a high rate of speed. I estimate it was travelling over 80 m.p.h. After it passed me, it began to slow down. A moment later, I saw a cloud of dust go up over the Hope Road bridge overpass. At this time I was going up the slope of the rise and did not see the collision. As I went over the rise, I pulled parallel to the Dodge and went to the car. I saw a male and a female in the front

seat. I recognize the male to be the defendant, Richard Starkey. I also saw several beer cans in the Dodge. I then went to the Buick, and opened the door. Mr. McCartney fell out. I saw Mrs. McCartney lying in a pool of blood. I picked up their daughter and walked east with her, facing east so she couldn't see her car. At this point, Starkey came up to me and said, "That son of a bitch was going too slow." I smelled the odor of beer on his breath when he said that

SCRIPT

Sgt. John Pepper

My name is John Pepper. I am a police sergeant for the City of _____, and have been a policeman for thirteen years. On May 17, 19____, at about 7:05 P.M., I got a radio call regarding an accident on the expressway. I went to the scene and was the first police officer there. After calling for an ambulance, I talked to the defendant. The entire conversation we had, as I recall it, was that I told him I was a police officer, gave him his rights, and I asked him if he was the driver of the Dodge. He said he was. I saw that he was staggering and smelled an odor of beer on his breath; also his eyes were glassy and his speech was slurred. He told me he felt McCartney's car wasn't going fast enough to be on the freeway. The speed limit on the freeway is 55 m.p.h.

I arrested the defendant and transported him to the station for booking. I think he was drunk and I'll bet he had at least twelve to fifteen cans of beer before the accident. He might have even been using drugs.

SCRIPT

Penny Lane

My name is Penny Lane and I live at 303 University Drive,
City of _____.

On May 17, 19____, my boyfriend, Richard Starkey, picked me up at my apartment for a dinner date at about four o'clock P.M. We stayed at my apartment for an hour or so. While we were there, Richard had one or two cans of beer, and I drank about three glasses of wine. We were talking and listening to the stereo. Richard mentioned that he had put a new cam in his Dodge and that the car seemed much faster. He said he had raced a Corvette on May 15, after putting the cam in, and that he easily beat the Corvette.

At about five, we went to a local bar on the way out for supper. We stayed there for about an hour and a half. Richard had about two bottles of beer there. It could have been three, but not more than that. I'm not really sure because the place was so busy and part of the time I was playing Foosball while Richard was at the bar. I had three more glasses of wine

while we were there. We left there about 6:30. The bar is about two miles from where the accident happened. Richard was driving okay when we left. He was driving a little fast, but wasn't having any trouble. I wasn't paying much attention to the road from the time we left the bar. All of a sudden, Richard yelled "look out!" I looked ahead and saw a green car going slow in front of us. Then there was a noise and I don't remember anything else until a policeman gave me a ride to the hospital. I had a bump on the head and a cut knee. When we left the bar, Richard had a six-pack of beer with him.

SCRIPT

Richard Starkey

My name is Richard Starkey. I live at 5201 College Court, City of _____, Wisconsin. I'm employed as a drummer in a rock music group. On May 17, 19____, I was going out on a date with my girlfriend, Penny Lane. I went to her apartment at four or four-thirty that afternoon. We talked for a while and I had a beer while we were there. I don't remember what we talked about, but I do remember that was the first beer or drink I had that day. When we left, we stopped off at a bar in Penny's neighborhood. She was looking for a girlfriend of hers who wasn't there. We waited for a few minutes. I had a beer or two while we were there. I was completely sober when we left and I wasn't having any trouble driving. I was driving about 65 miles an hour when we got on the expressway. As we approached the Hope Road overpass, I noticed a green Buick going very slow in front of me. I slowed down to 55 or 60 miles an hour. I was in the right lane at this point, and the Buick was in the center lane. At this point, the Buick turned from

the center lane into the right lane. I looked back to see if I could swerve into the center lane, looked ahead again, saw the Buick directly in front, yelled "look out!", slammed on the brakes, and hit the Buick.

I was a little dazed after the accident, though I wasn't hurt. I talked to a guy holding a little girl after the accident and I said, "Son of a bitch, was that guy going slow." I also talked to a police officer at the scene but I don't remember what was said. I also don't remember having any beer in the car.

STATE OF WISCONSIN :: CIRCUIT COURT :: COUNTY

STATE OF WISCONSIN,

Plaintiff

vs.

VERDICT

RICHARD STARKEY,

Case No.

Defendant

We, the jury, duly empanelled and sworn to try the
above entitled action find the defendant, RICHARD STARKEY,
(guilty, not guilty) as charged.

Dated this ____ day of _____, 19__.

(Foreman or Forelady)

MOCK TRIAL SCRIPT

BURGLARY CASE

Prepared and revised by:
Bryan Frame, Attorney
Waukesha, Wisconsin

PARTICIPANTS IN TRIAL

Judge: A local attorney

Prosecutors: Two students selected from the class

Defense Counsel: Two students selected from the class

Jurors: Twelve (optional: six) students from the class

Defendant: Robert Dylan

Police Officer: Michael Jagger

Drugstore Owner: James Hendrix

Drugstore Employee: Grace Slick

Service Station Manager: Marlow Guthrie

STATEMENT OF FACTS

The defendant, Robert Dylan, is accused of having burglarized the Hendrix Drugstore, 125 West Main Street, City of _____, Wisconsin on May 3, 19____. The defendant denies guilt, but admits to having been in the area at the time of the incident. Officer Jagger states that he found the defendant in the vicinity and that the defendant made certain incriminating statements to him. The drugstore owner will establish that a burglary did occur.

The defendant has previously been convicted of misdemeanor theft. Conviction of the offense of burglary could result in imprisonment in the State Prison for a maximum of ten years. The elements of the crime of burglary are as follows: Intentional entry into a building, without the consent of the person in lawful possession, with intent to steal or commit a felony. Each element must be proved beyond a reasonable doubt, and may be proved by circumstantial evidence.

At the close of the trial, the judge shall instruct the jury, using Wisconsin Jury Instructions Nos. 100, 1421, 140, 170, 190, 160 and 515 in that order.

OUTLINE FOR JUDGES AND ATTORNEYS

1. Most importantly, strive for a proper decorum in the Courtroom without being oppressive. The students have generally been sensitive to this need. We do want this to feel and sound like a real Courtroom.
2. Be aware of crucial objections that are not made. Feel free to then make an "Instructive Objection" in the form of "you meant to object on the grounds of hearsay." These should, as mentioned, be made if the flaw is a glaring one.
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- d. Witnesses may not take scripts to stand when testifying.

SCRIPT

Patrolman Michael Jagger

My name is Michael Jagger. I live at 1422 South Street, City of _____, Wisconsin. I am employed by the City as a patrolman, and have been so employed for two and one-half years. On May 3, 19____, at approximately 11:00 p.m., I was on my usual rounds on Main Street, City of _____. Walking past the Hendrix Drugstore, I notice through the large front window that the office door was standing open and that mud had been tracked all over the floor. I checked the front door and found it locked. I went to the rear door and found it standing about 1-2 inches open. There were many muddy footprints on the concrete loading dock behind the rear door. The entire block behind the drugstore is under construction and very muddy, as it had rained for about 24 hours before 11:00 p.m. May 3. I drew my gun and entered the rear door. Inside I found many muddy footprints, a broken lock on the office door, pill bottles knocked off the shelf, and the cash register opened. I did not find anyone inside. As I went out the back door, I saw the flash of a match or cigarette lighter on the next street over from Main, one block north of the store. I ran east to the corner

of Main and First Streets, then north along First to the corner of First and Elm Streets, then west along Elm to where the defendant was standing. I observed that he was smoking a cigarette at that time.

I asked him what he was doing there, and he replied, "Fixing my wife's car. The shift linkage came off, and I'm putting it back together." He pointed to a 1975 Ford automobile about ten feet away. The hood on this car was up. I walked over to it and placed my hand on the engine block, which was warm. I asked him what time the car broke down, and he answered, "around 6:00 p.m." I then noticed that his shoes and pants were very muddy. I told the defendant, "I'm placing you under arrest," and gave him his constitutional rights. He then said, "You'll never be able to pin that drugstore burglary on me."

I then placed him in the squad car and radioed for a tow truck for his car. We proceeded to the station, where I inventoried his belongings and placed him in a cell. I took all of his belongings to the squad room and made a list.

I then returned to the scene at about 2:15 a.m. As soon as I drove up, an unknown male, whose name I did not obtain, told me that he had seen the defendant run up to the Ford about five minutes before I got there and that the defendant had come from the direction of the Hendrix Drugstore.

5-4-7
12:15 p.m.

INVENTORY - DYLAN

Officer Jagger

1. 1 pair men's shoes - brown (muddy)
2. 1 pair men's sox - black (muddy)
3. 1 pair men's bluejeans - blue (muddy legs)
4. 1 pair men's undershorts
5. 1 men's tee shirt
6. 1 men's pullover sweater - dark blue
7. 1 men's flannel jacket - dark blue
8. 1 belt - black
9. 45¢ loose change
10. three keys on keyring
11. twenty dollar bill
12. men's comb - black plastic
13. 1 package of cigarettes
14. 1 package of matches
15. 1 men's wallet - black
16. 1 bottle of aspirin, in cardboard package, bearing Hendrix label

FRONT PANEL OF ASPIRIN BOX

100 Tablets

ASPIRIN K-2

A buffered aspirin compound
containing aspirin, phenacetin,
caffeine, and magnesium carbonate.

Warning--For children under

HENDRIX DRUGS consult your physician.
Our Low ections on the label,
Price use, and use as
87¢ d.

Uphill Laboratories, New York.

SCRIPT

Drugstore Owner James Hendrix

My name is James Hendrix. I live at 422 Yellow Sunshine Court, City of _____, Wisconsin. I am self-employed as the owner of the Hendrix Drugstore, 125 West Main Street, _____, Wisconsin. I have operated this store for ten years. I have four employees. Each employee has his own key. The store's usual hours are 9:00 a.m. until 10:00 p.m., Monday through Saturday. I recall the date of May 3, 19____. On that date, I worked in the store until 4:00 p.m., at which time my employee, Grace Slick took over. I have always told my employees to lock up both the office and the doors at the end of the day. I'm sure I told Grace to do this on that day. I also have told the employee to take all cash home with them every night at closing, and deposit it in the bank the next morning. On the afternoon of May 4, 19____, Miss Slick phoned me and told me that she had put all the cash register money in the bank bag at 9:45 p.m., as no customers had been in the store for an hour or so. She also said that Mrs. Joplin came in about five minutes later and gave her a twenty dollar bill as payment on her account. Miss Slick also said she had put the twenty dollar bill in the cash register instead of the bank bag.

Also on May 4, 19___, I went to the drugstore and observed muddy footprints all over the floor. I also observed that the cash register was open and empty. I also saw that the rear door was open. I think somebody broke the lock on the rear door and the office door, probably to steal money or drugs.

I do not know the defendant, Robert Dylan, personally, and never gave him consent to enter my drug store.

SCRIPT

Drugstore Employee Grace Slick

My name is Grace Slick. I live at 1454 Jefferson Place, City of _____, Wisconsin. I am employed by James Hendrix at the Hendrix Drugstore, 125 West Main Street, _____, Wisconsin. I have my own key to the store. On May 3, 19____, I worked from about 4:00 p.m. of that day until about 10:00 p.m. At the end of the day, I put the money in a bank bag. I think I may have left a \$20.00 bill in the cash register that night. I am sure that I locked all the doors when I closed up, including the office door.

I do remember having a phone conversation with Mr. Hendrix on the day after the incident, but don't remember what was said.

I do not remember seeing the defendant at any time in the Hendrix store on May 3, 19____. I am sure he was not in the store during my shift on that date. I was the only employee on duty on that shift that day.

SCRIPT

Service Station Operator Marlow Guthrie

My name is Marlow Guthrie. I live at 622 Maple, _____, Wisconsin. I am self-employed as the operator of Marlow's Magnificent Motors, a gas station and auto repair center. I also operate a towing service. On May 4, 19____, in the early morning hours, I received a telephone call from the City Police. They said they had caught a burglar and asked me to tow in a Ford. I went to Elm Street, just west of First Street, with my tow truck. At the scene, I found a 1976 Ford automobile. I towed this vehicle to my garage. The shift linkage had come apart, and the car was not operable. I also found some white powder in a plastic bag in the glove compartment which I think was heroin. A shift linkage could come apart this same way if someone jammed the lever into any forward gear in too big a hurry.

SCRIPT

Defendant Robert Dylan

My name is Robert Dylan. I live at 552 East Wilson Street, City of _____, and am employed by Zappa Electronics as an electrician. I am twenty-six years old and have been employed there three years. I am married and have a daughter.

On May 3, 19____, I got home about 6:00 p.m. My wife told me that her car broke down near the corner of First and Elm Streets, in the City of _____. We ate supper and watched television until 10:00 p.m. I then walked over to her car, stopping at Hendrix Drugstore. It was closed when I got there. I didn't have any aspirins with me or in the car. On the way I crossed through the muddy field bounded by Main, First, and Elm Streets. I worked on the car for a few minutes and decided to take a break. I lit up a cigarette and a few seconds later, a policeman ran up to me. He asked me what I was doing, and I told him I was fixing my wife's car. He told me to put my hands on the car top. He frisked me, and I asked him why. He told me to shut up and said I was under arrest for burglary. I told him I didn't know anything about it. He then told me some rights, put me in his car, and drove me to the station. He gave me some

jail clothes and took my clothes and other things. I think I had some loose change and maybe a dollar in my wallet.

I have a criminal record, having been convicted once of misdemeanor theft.

STATE OF WISCONSIN

:: CIRCUIT COURT ::
 BRANCH II

WAUKESHA COUNTY

STATE OF WISCONSIN,

Plaintiff

vs.

VERDICT

ROBERT DYLAN,

Case No.

Defendant.

We, the jury, duly empanelled and sworn to try the
above entitled action find the defendant, ROBERT DYLAN,
 as charged in the matter of burglary

Dated this _____ day of _____, 19____,
at Waukesha, Wisconsin.

(Foreman or Forelady)

MOCK TRIAL SCRIPT

CHILD ABUSE

Prepared by:

Frederic J. Berns, attorney

PARTICIPANTS IN TRIAL

Judge

Father of child

Mother of child

Babysitter, Leanna French

Friend of family and practical nurse, Susie Wright

Doctor

Linda McCartney, mother's sister

Plaintiff's attorney

Defendant's attorney

Child's attorney

Jurors

STATEMENT OF FACTS:

Jean, age 3, was left overnight with her babysitter. Upon getting the child ready for bed, the babysitter noticed some severe bruises and transported the child to the local hospital. Upon examination, the doctor discovered what he diagnosed as a classic case of child abuse. Although the parents are suspected of the beatings, they both deny any involvement.

STATEMENT OF SUSIE WRIGHT

On the morning of April 16, 1977, I helped dress Jeannie before Paul and Linda took her to the babysitter. I had an opportunity to see her body and did not see any bruises. I am a licensed practical nurse by occupation.

Susie Wright

STATEMENT OF MOTHER, LINDA McCARTNEY

I have never seen my husband, Paul, beat our daughter. He does discipline her by spanking her with a open hand. On April 16, 1977, we went out with our friends, Joe and Susie Wright. We knew that we were going to be gone most of the evening so that is why we left our daughter with a babysitter. We did have quite a bit to drink that evening.

Linda McCartney

STATEMENT OF DORETTE SANSON

I am a sister to Linda McCartney. I lived with Paul and Linda for 4 months in 1976. During that time, I did see Paul hit Jeannie with his belt and with his hand. Many times I saw bruises on Jeannie from this action. The bruises were usually located on the back of her legs and back. I have never seen Linda McCartney spank Jeannie. I have seen Paul and Linda smoking Marijuana and taking some kind of little yellow round pills. I have seen Paul get angry with his wife, Linda and strike her also. I moved out of the McCartney home because I could not stop Paul from hitting the little girl. I am 15 years old at the present time.

Dorette Sanson

INTERVIEW OF LEANNA FRENCH:

Q: And did they bring their child, Jean, to your home for you to babysit on April 16, 1977?

A: Yes.

Q: They did, and what was the reason for you babysitting? Were they going out of town?

A: They didn't say where they were going, they just said they would be out and back Sunday morning.

Q: How often do you babysit with this Jean?

A: It was kind of off and on because like sometimes she could just come on over and have everybody babysit, you know.

Q: Your brothers and sister you mean?

A: Yes, everybody was there.

Q: When was the closest date prior to this April 16, the next earlier date that you babysat with Jean?

A: I wouldn't know the date.

Q: How many days prior to this?

A: A couple of weeks.

Q: A couple of weeks before that. And, at that time, did you notice any bruises or anything on the child?

A: Just on her arms and sometimes on her chest.

Q: You had noticed bruises in the past? Yes, is that right?

A: Yes.

Q: Now, on this date, Mr. & Mrs. McCartney both brought the baby over to your home, is that right?

A: Yes.

Q: Were they along with anyone else at that time?

A: Yes.

Q: Who was with them?

A: One of his brothers and some other lady that I don't know her name.

Q: And they said that they were going to leave the baby with you, did they say for how long?

A: Yea, until Sunday night.

Q: Until Sunday night. Okay, and what time of the day was this on April 16 when they brought the baby to you?

A: 3:30.

Q: 3:30 in the afternoon. And, at that time did you notice anything strange about the baby?

A: Yes.

Q: What did you notice?

A: That she had bruises on her face and all down the backs of her legs, and she had bruises all over her back.

Q: Then later that night, did the baby become upset?

A: Yes.

Q: Did you undress the baby when you first noticed the bruises, or how did you happen to notice them?

A: When she was playing on the couch, she was rolling on her stomach and I noticed the bruises on her legs and then I took her into the bathroom and I looked at her to see if I could find any more and I did.

Q: Okay, and then the baby became upset during the night, and cried most of the night?

A: Yes.

Q: And then the following morning, what happened?

A: Well, we thought that maybe something was really wrong with her because she (inaudible), so Dad called up the Social Services and asked them if he could bring her into the hospital for a check-up because, you know, (inaudible).

Q: And then when you brought her to the hospital at Whitehall, the doctor examined her, is that right?

A: Yes.

Q: And then they kept the baby there?

A: Yes.

Q: And then what did you do, did you just go home?

A: We just went home.

Q: You did. Did Paul and his wife, Linda come to your house on Sunday evening.

A: No, they came Sunday morning. And they knew that we took her to the hospital.

Q: And then did they come to the hospital?

A: No, they didn't.

Q: They never showed up at the hospital?

A: They just left again, and then they came back again later that evening.

Q: Did they know that you were at the hospital?

A: No.

Q: They didn't know. I see. At the time that the doctor examined the child, do you know what his findings were, did he tell you what had happened to this girl?

A: He said that with all the bruises and that, it was clear that she had been hit.

Q: Have you ever seen Paul abuse Jean in the past?

A: Yes.

Q: What did you observe in the past?

A: Grabbing her arms and he showed his fist at her.

Q: Did you ever see him strike her with a belt?

A: Yes.

Q: How many times?

A: It was just a couple times, he really didn't do too much that time.

Q: This was all at one time, you saw him striking maybe twice with a belt, and was that on the buttocks, was that on the back?

A: Butt.

Sheriff's report of interview with Paul McCartney:

Q: Another thing, Paul, do you use any drugs of any kind?

A: Nope.

Q: Marijuana?

A: Nope.

Q: How about alchohol?

A: Just on weekends, is about all.

Q: Just on weekends, are you a moderate drinker, heavy drinker; do you drink just a little bit or a lot, you get stoned?

A: I don't get stoned, once in a while I might get drunk, but.

Q: What types of discipline did you use on Jean?

A: We just had to holler at her and send her to bed.

Q: Did you ever spank her with your hand?

A: Yea.

Q: How about with a belt, did you ever use a belt?

A: Once.

Q: When was that?

A: A long time ago, last year.

Q: A year ago, You never used a belt recently?

A: No. My hand hurt and stuff when I spanked her, so I used a belt once, but I didn't hit her hard with it. And that was it. I couldn't see hitting with a belt.

Q: A year ago, you just hit her how many times with the belt?

A: Twice.

Q: And whereabouts on her body did you hit her at that time?

A: Right on her butt.

Q: Then you put her to bed?

A: Yes.

Q: Now this baby, Jean, supposedly has a number of bruises that she

was taken into the doctor, do you know what caused those bruises?

A: No. She had a couple of real tiny ones on her legs from playing and that was it. All kids get bruises from playing.

Q: Did your wife ever beat Jean?

A: No.

Q: What is your wife's first name?

A: Linda.

Q: And she has never used a belt on the baby either?

A: No.

Q: Does she use any drugs?

A: No.

Q: Did you ever suspect that the babysitter may have abused the child?

A: That is what we suspected when we found out that she was in the hospital.

Q: Did you see any bruises on the baby before she went to the babysitter?

A: No, and we have a bunch of witnesses to verify this. She just had a couple of real tiny ones on her legs from playing and that was it. She didn't have no other bruises on her.

Q: What did you beat the baby for that time you said, a year ago, you beat her with a belt?

A: I didn't beat her, I just--

Q: Okay, you just hit her with a belt twice. What was the reason for that?

A: She just got into one of her fits, started sassing Linda and Linda told her to knock it off and go to bed, and she got mad and she flipped over the garbage and stuff.

Q: Did you ever tell your babysitter that you had beaten the child with a belt for not going to the bathroom or going to the toilet?

A: No.

Q: You have never said that or made that statement?

A: No.

Q: Did you ever see your wife intentionally pinch the baby in the neck a couple of weeks prior to her going into the hospital?

A: No.

Q: Do you have a violent temper?

A: Only at adults.

Q: Only at adults, not at children?

A: No.

Q: Did you ever notice any bruises on the child other than the ones on the legs?

A: Not until we went up there Sunday night to see her in the hospital.

Q: What did you notice on the baby Sunday night at the hospital?

A: She had a big bruise on her back, she had little bruises right here, and a few little ones on the back like someone would have grabbed hold of her with their hands right around her chest, squeezing and shaking her, looked like somebody took and smacked her right up side the eye there, because she had a big bruise on her eye, and a few little ones on her legs, and her whole ass, and around her ankles, like someone just grabbed and squeezed her ankles and held her upside down, and squeezed them real tight because her ankles were just black, they were black bruises.

Q: And if the baby, Jean, said that your wife did this to her, the baby would be lying, is that right?

A: What can you expect from a three-year-old kid when someone walks up and says, "Did your mommy hit you", what the hell are they going to say? I walk up to her and ask her if you hit her and she would say yes. She definitely is going to say that I spanked her.

PROGRESS RECORD

IF IMPRINT PLATE NOT
PRINT HERE

#20

DATE	TIME	PROBLEM NUMBER	FORMAT: PROBLEM NUMBER AND TITLE
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S=Subjective O=Objective A=Analysis P=Plans

4-17-77

Admission Note -

3yo girl brought in by baby
sitter and father of babysitter.
Have noted numerous bruises for
several months. Pt. has old,
subacute and acute injuries
to soft tissues. Swollen, red
contusion of right cheek and
numerous "pinch" marks on
body. All X rays are negative.

A detention order has been
issued by Social Welfare Service
and parents to contact them
tomorrow.

4-17-77

Parents told to contact Dr. Myers in
AM. Mentioned that horse fall
could be responsible for several
bruises.

1. Was the child abused? Yes _____ No _____

2. If you answered the preceding question yes, was the child abused by the defendant Paul and Linda McCartney?

Yes _____ NO _____

3. If you find that the abuse was by the defendant Paul and Linda McCartney you may continue to answer the following questions:

a. Was the abuse of such a nature as is proper in the discipline of the child?

Yes _____ NO _____

b. If you answered the preceding question no you may answer the following question: Was the abuse of such a nature as to require the child to be placed under the supervision of the Department of Social Services, but left with the parents?

Yes _____ No _____

c. Only if you answered the preceding question no may you answer the following question: Was the abuse of such a nature to require the court to remove the child from her parents?

Yes _____ No _____

Dated this:

59R0107

110

INSTRUCTIONS TO THE JURY

You are to listen only to the evidence presented in this case. The arguments of the attorneys in this case is not evidence, only the verbal testimony, and the written reports presented in this case is evidence.

If the arguments help you decide this matter then you are free to use them.

Child abuse can be neglect to provide the child with proper parental care. Abuse of a child can be excessive punishment. A parent has a right to discipline his child, but such discipline must be reasonable in light of the age of the child, his understanding of right and wrong and the strength of the parent.

As you retire to the jury room you will elect a forman or forelady. You will also answer the following questions. When you have answered the questions you will have the foreperson sign the verdict and return with it to this courtroom.

111

234 INSTRUCTIONS

STATEMENT OF SUSIE WRIGHT

On the morning of April 16, 1977, I helped dress Jeannie before Paul and Linda took her to the babysitter. I had an opportunity to see her body and did not see any bruises. I am a licensed practical nurse by occupation.

Susie Wright

STATEMENT OF MOTHER, LINDA MCCARTNEY

I have never seen my husband, Paul, beat our daughter. He does discipline her by spanking her with an open hand. On April 16, 1977, we went out with our friends, Joe and Susie Wright. We knew that we were going to be gone most of the evening so that is why we left our daughter with a babysitter. We did have quite a bit to drink that evening.

Linda McCartney

113

STATEMENT OF DORETTE SANSON

I am a sister to Linda McCartney. I lived with Paul and Linda for four months in 1976. During that time, I did see Paul hit Jeannie with his belt and with his hand. Many times I saw bruises on Jeannie from this action. The bruises were usually located on the back of her legs and back. I have never seen Linda McCartney spank Jeannie. I have seen Paul and Linda smoking Marijuana and taking some kind of little yellow round pills. I have seen Paul get angry with his wife, Linda and strike her also. I moved out of the McCartney home because I could not stop Paul from hitting the little girl. I am 15 years old at the present time.

Dorette Sanson

INTERVIEW OF LEANNA FRENCH:

Q: And did they bring their child, Jean, to your home for you to baby sit on April 16, 1977?

A: Yes.

Q: They did, and what was the reason for you babysitting? Were they going out of town?

A: They didn't say where they were going, they just said they would be out and back Sunday morning.

Q: How often do you babysit with this Jean?

A: It was kind of off and on because like sometimes she could just come on over and have everybody babysit, you know.

Q: Your brothers and sister you mean?

A: Yes, everybody was there.

Q: When was the closest date prior to this April 16, the next earlier date that you babysat with Jean?

A: I wouldn't know the date.

Q: How many days prior to this?

A: A couple of weeks.

Q: A couple of weeks before that. And, at that time, did you notice any bruises or anything on the child?

A: Just on her arms and sometimes on her chest.

Q: You had noticed bruises in the past? Yes, is that right?

A: Yes.

Q: Now, on this date, Mr. and Mrs. McCartney both brought the baby over to your home, is that right?

A: Yes.

Q: Were they along with anyone else at that time?

A: Yes.

Q: Who was with them?

A: One of his brothers and some other lady tht I don't know her name.

Q: And they said that they were going to leave the baby with you, did they say for how long?

A: Yea, until Sunday night.

Q: Until Sunday night. Okay, and what time of the day was this on April 16 when they brought the baby to you?

A: 3:30

Q: 3:30 in the afternoon. And, at that time did you notice anything strange about the baby?

A: Yes.

Q: What did you notice?

A: That she had bruises on her face and all down the backs of her legs, and she had bruises all over her back.

Q: Then later that night, did the baby become upset?

A: Yes.

Q: Did you undress the baby when you first noticed the bruises, or how did you happen to notice them?

A: When she was playing on the couch, she was rolling on her stomach and I noticed the bruises on her legs and then I took her into the bathroom and I looked at her to see if I could find any more and I did.

Q: Okay, and then the baby became upset during the night, and cried most of the night?

A: Yes.

Q: And then the following morning, what happened?

A: Well, we thought that maybe something was really wrong with her because she (inaudible), so Dad called up the Social Services and asked them if he could bring her into the hospital for a check-up because, you know, (inaudible).

Q: And then when you brought her to the hospital at Whitehall, the doctor examined her, is that right?

A: Yes.

Q: And then they kept the baby there?

A: Yes.

Q: And then what did you do, did you just go home?

A: We just went home.

Q: You did. Did Paul and his wife, Linda come to your house on Sunday evening?

A: No, they came Sunday morning. And they knew that we took her to the hospital.

Q: And then did they come to the hospital?

A: No, they didn't.

Q: They never showed up at the hospital?

A: They just left again, and then they came back again later that evening.

Q: Did they know that you were at the hospital?

A: No.

Q: They didn't know. I see. At the time that the doctor examined the child, do you know what his findings were, did he tell you what had happened to this girl?

A: He said that with all the bruises and that, it was clear that she had been hit.

Q: Have you ever seen Paul abuse Jean in the past?

A: Yes.

Q: What did you observe in the past?

A: Grabbing her arms and he showed his fist at her.

Q: Did you ever see him strike her with a belt?

A: Yes.

Q: How many times?

A: It was just a couple of times, he really didn't do too much that time.

Q: This was all at one time, you saw him striking maybe twice with a belt, and was that on the buttocks, was that on the back?

A: Butt.

Sheriff's report of interview with Paul McCartney:

Q: Another thing, Paul, do you use any drugs of any kind?

A: Nope.

Q: Marijuana?

A: Nope.

Q: How about alcohol?

A: Just on weekends, is about all

Q: Just on weekends, are you a moderate drinker, heavy drinker; do you drink just a little bit or a lot, you get stoned?

A: I don't get stoned, once in a while I might get drunk, but.

Q: What types of discipline did you use on Jean?

A: We just had to holler at her and send her to bed.

Q: Did you ever spank her with your hand?

A: Yea.

Q: How about with a belt, did you ever use a belt?

A: Once.

Q: When was that?

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Q: A year ago, you never used a belt recently?

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Q: A year ago, you just hit her how many times with the belt?

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Q: And wherabouts on her body did you hit her at that time?

A: Right on her butt.

Q: Then you put her to bed?

A: Yes.

Q: Now this baby, Jean, supposedly has a number of bruises that she was taken into the doctor, do you know what caused those bruises?

A: No. She had a couple of real tiny ones on her legs from playing and that was it. All kids get bruises from playing.

Q: Did your wife ever beat Jean?

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Q: What is your wife's first name?

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Q: And she has never used a belt on the baby either?

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Q: Does she use any drugs?

A: No.

Q: Did you ever suspect that the babysitter may have abused the child?

A: That is what we suspected when we found out that she was in the hospital.

Q: Did you see any bruises on the baby before she went to the babysitter?

A: No, and we have a bunch of witnesses to verify this. She just had a couple of real tiny ones on her legs from playing and that was it. She didn't have no other bruises on her.

Q: What did you beat the baby for that time you said, a year ago, you beat her with a belt?

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Yes _____ No _____

c. Only if you answered the preceding question no may you answer the following question: Was the abuse of such a nature to require the court to remove the child from her parents?

Yes _____ No _____

Dated this:

Verdict

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